

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA**

**BP AMERICA INC. and  
BP PRODUCTS NORTH AMERICA  
INC.,**

**Plaintiffs,**

**v.**

**DIWAN PETROL INC.,**

**Defendant.**

Civil Action No. 2:21-cv-02437-HB

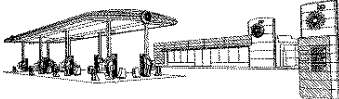
**ORDER OF CONTEMPT, SEIZURE AND DESTRUCTION**




AND NOW, this 17th day of May, 2022, based upon the findings of fact and conclusions of law set forth in the foregoing memorandum, it is hereby ORDERED that:



1. Defendant Diwan Petrol, Inc. is in contempt of this Court's August 31, 2021 Order which found that plaintiffs bp America Inc. and bp Products North America Inc. own the following trademark rights:

(a) the bp name and bp word mark; a green-and-yellow service station trade dress; the bp Helios design mark; the AMOCO word and composite design marks; the INVIGORATE word and composite design marks; and the SILVER and ULTIMATE word marks (referred to collectively as the "bp Name and Marks" or "bp Marks"); and,

(b) federal trademark, including service mark, registrations for the bp Marks for the goods and services noted below:

MARK	REG. NO.	REG. DATE	RELEVANT GOODS/ SERVICES
	2,898,527	November 2, 2004	Retail store services featuring convenience store and gasoline in Class 35

MARK	REG. NO.	REG. DATE	RELEVANT GOODS/ SERVICES
	3,064,674	March 7, 2006	<p>Management of procurement in the nature of purchasing fuel and products for sale in a convenience store situation on a service station; services relating to filling stations and shops located on filling stations, namely, retail store services featuring convenience store items and gasoline; retail convenience store services; retail gasoline supply services; retail franchising services in the establishment or operation of service stations, retail convenience stores situated on service station sites, and car washes in Class 35</p>
	3,405,599	April 1, 2008	<p>Fuels, namely, gasoline, diesel, natural gas and liquid gas in Class 4</p> <p>Business operation of service stations; the bringing together for the benefit of others, of a variety of goods, enabling customers to conveniently view and purchase those goods in a convenience store, a filling station or in a convenience store located in a filling station in Class 35</p>
	3,515,941	October 14, 2008	<p>Fuel for motor vehicles, namely, gasoline and diesel fuel in Class 4</p> <p>Retail store services featuring convenience store items and gasoline; retail gasoline supply services in Class 35</p>

MARK	REG. NO.	REG. DATE	RELEVANT GOODS/ SERVICES
BP	5,703,325	March 19, 2019	Fuels; biofuels; liquid fuels; solid fuels; gas fuels in Class 4  Vehicle service stations; vehicle fueling stations in Class 37
	3,580,392	February 24, 2009	Non-chemical gasoline additives in Class 4
INVIGORATE	3,449,716	June 17, 2008	Fuels, namely, gasoline; Vehicle service stations in Class
	1,353,619	August 13, 1985	Gasoline, diesel fuel in Class 4
AMOCO	167,769	May 18, 1923	Gasoline, motor fuels in Class 4
SILVER	2,238,762	April 13, 1999	Gasoline in Class 4
ULTIMATE	2,949,428	June 7, 2005	Gasoline in Class 4

2. Plaintiffs' representatives, Julie Latsko (a member of the Pennsylvania bar), Novaira Paul (a member of the Illinois bar), employees of bp's contractor, UA Projects, and all persons acting under their supervision, and a locksmith and painter, are authorized to enter Defendant's premises at 1360 Street Road, Bensalem, Pennsylvania, to effectuate the seizure and removal, or the repainting in white, of any displays of the bp Name and Marks, specifically:
  - a. the removal and seizure of the product grade labels on the fuel pumps displaying the SILVER mark and silver background color;

- b. the removal and seizure of the panels on the elevated street sign displaying the SILVER mark;
  - c. the removal and seizure of the product grade labels on the fuel pumps showing the ULTIMATE mark and the background blue and gold coloring;
  - d. the removal and seizure of the panels of the elevated street sign displaying the ULTIMATE mark;
  - e. the removal and seizure of product grade labels on the fuel pumps displaying the INVIGORATE and Design mark and the background blue coloring;
  - f. the removal and seizure of green product grade labels on the fuel pumps that show the word “regular”;
  - g. the painting over in white of the color green in any shade located on the two buildings and the areas nearby, including the green color in any shade appearing on all canopies, columns, pillars, awnings, and at the top and bottom portions of the fuel pumps, including the numbering on these pumps, as well as on the elevated street sign, all of which consist of the green portion of bp’s green-and-yellow service station trade dress or simulations thereof;
  - h. the removal and seizure of any green windshield wiper and trash receptacles near the fuel pumps; and
  - i. the removal and seizure of any promotional materials or paper receipts bearing the bp Name and Marks from within the interior of the buildings.
3. bp's aforesaid attorneys, representatives, contractor, locksmith, and painter are allowed to operate any equipment necessary to inspect the Station and remove, seize, or paint over in white the bp Name and Marks, including background colors or the color green in any shade which is part of bp’s green-and-yellow service

station trade dress or is a simulation thereof, and identify the signs, parts of pumps, canopies, pillars, awnings or other fixtures or structures, the exterior and interior of the two buildings, or promotional materials or paper receipts, on which they appear (collectively “Objectionable Material”).

4. The United States Marshal, including deputy Marshals, are authorized to aid if necessary in the peaceful compliance with this order and to use all reasonable force necessary to effectuate the terms of this order.
5. Anyone interfering with the execution of this order is subject to arrest by the United States Marshal, including deputy Marshals.
6. The United States Marshal, including deputy Marshals, be, and hereby are, directed to assist bp's representatives, contractor, locksmith, and painter in conducting an inventory and photographing of all Objectionable Material that are seized and removed from 1360 Street Road, Bensalem, Pennsylvania, or that are painted over at this location, that are in the custody or control of Defendant or anyone else located at this station.
7. In accordance with 15 U.S.C. § 1118, the contractor UA Projects is hereby appointed to act as the substitute custodian of the removed and seized product grade labels and any parts relating thereto from the pumps displaying the ULTIMATE mark and the gold and blue background color, the INVIGORATE and Design mark and the blue background color, the SILVER mark and the silver background color, the AMOCO mark, and the green color from bp's green-and-yellow service mark trade dress where the word “regular” appears; the panels on the elevated street sign displaying the ULTIMATE mark and the SILVER mark and any parts related thereto; the windshield wiper and trash receptacles near the fuel pumps displaying

the color green which is part of bp's green-and-yellow service station trade dress; any promotional materials or receipts within the Station displaying the BP Name and Marks, and any other material seized in accordance with this Order because it displays the ULTIMATE mark, the SILVER mark, the INVIGORATE and Design mark, or the AMOCO mark, or portions of bp's green-and-yellow trade dress or simulations thereof, or any other examples of the BP Name and Marks, on behalf of this Court, in the place and in the stead of the United States Marshal, including deputy Marshals, for purposes of impounding and within thirty (30) days destroying this Objectionable Material.

8. Upon transfer to UA Projects by the United States Marshal, including deputy Marshals, of custody of any seized Objectionable Material, the United States Marshal, including deputy Marshals, shall not be liable for any loss occurring while it remains in the custody of UA Projects. UA Projects may move the seized Objectionable Material to a location where it may have the Objectionable Material impounded, stored, and destroyed.
9. bp, upon receiving notice from UA Projects, shall certify to this Court within ten (10) days of when this destruction of the Objectionable Material, if any, has occurred.

BY THE COURT:

/s/ Harvey Bartle III

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Honorable Harvey Bartle III  
United States District Court Judge